



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

Psychology applied to Legal Evidence and Other Constructions of the Law. By G. F. ARNOLD. Calcutta: Thacker, Spink, & Co. 2d ed., 1913.—pp. xi, 607.

This work might more descriptively be named (after the fashion of seventeenth century broadsides): "An Arraignment of Law at the Bar of Science; wherein may be discovered that, as Ignorance of the Law is no Valid Plea for the Layman, so Ignorance of Science is no Tenable Plea for the Law; and wherein is set forth by Examples the Extent of Law's Contrariety to Science."

The first edition appeared in 1906; but few copies reached this country. The present edition has been considerably enlarged, as well as thoroughly revised. The author is described as "late member of the Burma Legislative Council, and formerly offg. Deputy Secretary to the Government of India Legislative Department"; and, if we remember correctly, the first edition noted also that he had held judicial office in Burma.

The chapters bear the following titles: General Introduction; Some Specific Defects of the Law; Intention; Attention; The Normal Man; Causation; Belief, Doubt, Tests of Truth, Reality; Feeling, Imagination, Prejudice, Habit; Insanity; Hallucinations, Illusions, Hypnotism, Sleep; Identity, Similarity, Comparison of Handwriting, Imitation; Responsibility, Punishment, Justice; Differences of Race; and two Appendices. The thesis of the book is that the law must advance with science; and the method is, taking psychology as a typical modern science, to outline its teachings on specific topics, and then by these to test the validity and aptness of the law's rules affecting such topics. It happens that the topics selected fall mostly in the fields of Evidence and of Criminal Law, but their range is much broader than those alone.

The first chapter sounds a note which has been already heard in this country, notably from Professor Roscoe Pound among lawyers, from Professor Hugo Münsterberg among psychologists, and from Professor Overstreet among philosophers. It is thus expressed: "If there is one path which lawyers and judges fear to tread, it is that of philosophy. . . . But there are signs that a new situation will have to be met even in the conservative realm of law." Mr. Arnold's exposition of this thesis is temperate but severe. We wish that every lawyer could read it. 'Tis well that a lawyer himself is found preaching on this text. The minds of one hundred thousand men in this country have to be opened to the new truth. You cannot open men's minds with a hatchet. Nothing is left but to persuade them to listen; and they listen best to one of their own kind.

In the second chapter, the author formulates six specific charges against the law; (1) its artificiality of language obstructs its being understood by the layman; (2) it is unduly narrow in its methods of procedure; (3) it neglects other sciences, and relies on its own inadequate data; (4) it gives excessive regard to outworn precedents; (5) its rules of evidence are not based on the facts of experience; (6) these shortcomings produce failure of justice. All these six, we think, fall in line as corollaries or examples of the third. That expresses the root of the trouble; for, as Mr. Arnold puts it, "The world of our law courts is not something independent, as the lawyers strive to make it, but is a mere element in our total experience." If at this moment we could trepan the legal mind so as to make it appreciate this truth, the rest of the desired improvements would naturally follow.

In the ensuing chapters, Mr. Arnold takes up specific legal rules and terms, testing them by science. His method can be sufficiently seen in Chap. III, on Intention. Beginning with the terms "will," "intention," "motive," he describes them from the point of view of the modern psychologist and philosopher, quoting from Bradley, Höffding, Wundt, Stout, Sully, and other accepted authors. He then takes up certain legal principles, such as "every person must be taken to intend the natural consequences of his act," "a person may be estopped to deny the truth of his assertion, even if he has made the false representation without fraud or negligence"; and proceeds to criticize these choice and orthodox bits of scholastic logomachy. Copious examples are given, from Indian and English decisions, of the verbal pedantry and unpractical nonsense to which such unscientific terminology leads the law. And this method of exposition he continues throughout the other chapters.

Lawyers have been brought up from their first days on this inadequate lingo, and cannot be expected to realize how unnatural and pedantic so much of it is. A defective terminology is one of the greatest defects of the law. Yet so inveterate is the lawyer's complacency with it that the two or three simple scientific terms which the writer dared to devise for a 3,000-page treatise on Evidence were laughed at goodnaturedly as allowable follies, and are still a favorite theme of jest by legal friends. The explanation is that the law naturally gets its terms from below, *i. e.*, from daily usage, and not from above, *i. e.*, from the ether of scientific research; and that the law has many important problems to attend to which dwarf the claims of terminology. Nevertheless, in a period like the present, when the law is faced with the necessity of adapting settled principles to new

instances and to new truths of science, this lack of a terminology becomes a tremendous handicap, and is today a main source of its inability to cope speedily with the situation.

Mr. Arnold's book is mainly destructive, not constructive,—as indeed he frankly admits in his Preface. But, at today's stage, this method is inevitable. And his method is correct and valuable in that he begins by invoking and expounding the data of science and then measuring the law's concrete rules by those tests. What we need in this country today is more books of this kind. Every law-student should be given this book, and more like it, to open his eyes to the need of squaring the law with science.

Of course, there is going to be much misuse of such books, before we get through the stress and storm period. "Laymen think law is all clover," as one of our law-school songs has it. That is, laymen are apt to believe that all that is needed, to cause the laws' defects to crumble away, is a due quantity of harsh criticism. Even professors of psychology and of sociology and of political science have been known to exhibit this superficial notion. But they forget that the law is simply a set of attempts to solve vast and complicated facts of daily life. The maelstrom of facts will be there, even if this or that set of rules is withdrawn. Some other set of rules must be supplied, to keep the maelstrom in order. It may seem to the scientist easy enough to criticize the law's definitions of "intention," "motive," "negligence," "cause," and the like. But let the psychologists and the philosophers leave their study-chairs, mount the judicial bench, and try to lay down a set of rules, fair in result and strictly equal for all conditions of men, and capable of solving the millions of variant cases that have to be met from day to day; and perhaps they would find that the task they attacked was not so scientifically simple, after all; that rules of thumb were a godsend; that abstractions do not always work in the concrete; that in the welter of fraud and honesty, danger and safety, lies and truth, contracts and wrongs, statutes and ordinances, mortgages and writs of error, capitalists and usurers, drunks and derelicts,—certain everyday notions were usually the safest guide for the day's strenuous toil at keeping the world in order and decently safe and honest; and that the judge and the lawyer may be charitably excused for not letting go of the fairly safe old adages of Coke and Blackstone, until Modern Science has constructively devised in their stead some new ones which will work as well in the court-room as they do in the quiet laboratory.

In short, neither the philosopher alone, nor the law-man alone, can

meet the situation. Our course today is two-fold: to wake up the older lawyers, and to educate the young ones, to the claims of science; and then to let the New Era Lawyer work out the final solution for himself. Mr. Arnold's book ought to help greatly in this task.

JOHN H. WIGMORE.

NORTHWESTERN UNIVERSITY.

Self-Realization. An Outline of Ethics. By HENRY W. WRIGHT
New York, Henry Holt and Company, 1913.—pp. xiv, 429.

This volume, by Professor Wright, amply justifies itself as a text-book on Ethics. Though not without merit as an attempt at independent construction, it is valuable chiefly for its adaptability to the needs of college students. It is comprehensive, well-arranged, fair for the most part in its criticisms, and generally clear and forceful in style. The argument is built upon the thesis that man's highest good is Self-realization, interpreted as the organization and development of all his capacities. This one principle correlates all our moral judgments, and establishes the supreme authority of moral obligation. As the *summum bonum*, Self-realization harmonizes Hedonism and Rationalism, Intuitionism and Empiricism, Egoism and Altruism, self-assertion and self-sacrifice; it provides for the permanence of moral distinctions, whatever the possible development of the moral life; and it furnishes the only principle for a satisfactory classification of the virtues.

Without any historical preliminaries, the treatise opens at once with an exposition of the nature and scope of Ethics. This has the spirit, if not altogether the manner, of Professor Seth in his *Ethical Principles*. Indeed, the reader is constantly reminded of Seth, to whom fitting acknowledgment is made in the preface. But we have not a mere rearrangement of Seth's material. The book gives evidence that Professor Wright is not only a close student of ethical literature, but a thinker of considerable insight, both critical and constructive. This discussion of the nature and scope of Ethics constitutes Part I, under the title, "Ethics as the Science of Good Conduct." Conduct includes "all of the activity by which man's personality gains expression." As against Herbert Spencer and Professor Dewey, the author contends that no conduct is ethically indifferent, since all ends and activities are expressions of a unitary personality. In this part of the book the usual definitions and explanations are given. The moral ideal is the problem of Ethics. The good that completely satisfies the will (= the self) can be none other than the will itself in its fullest realization. The moral ideal must be "an expression of what is latent